

Memorandum

Vermont Department of Public Service

To: Vermont Public Service Board

From: Robert Ide, Energy Efficiency Director

Subject: Act 61 Implementation Energy Efficiency Charge Exemption
Conceptual Proposal

Date: December 20, 2005

In Board informal proceedings regarding the implementation of the EEU related portions of Act 61, the Board requested the DPS provide a conceptual proposal for a mechanism for customer exemption from the energy efficiency charge (“EEC”). This document reviews the legislatively established criteria, puts forth some preliminary thinking on specific criteria that might be used, and identifies issues that will need to be addressed in an exemption process.

Sec. 6. 30 V.S.A. § 209(d)(4), in part, reads:

The board, by rule or order, shall establish a process by which a customer may apply to the board for an exemption from some or all of the charges assessed under this subdivision. The board shall establish criteria by which these applications shall be measured. Any such exemption shall extend for a period of time not to exceed one year. In addition, the board may authorize exemptions only if, at a minimum, a customer demonstrates that, during the preceding year, it implemented an extraordinary amount of cost-effective energy efficiency at the customer’s own expense or incurred extraordinary costs on those measures and the customer did not and will not receive reimbursement for those measures from the entity designated by the board under this section.

Measurement Criteria

This law provides that a one year exemption from the energy efficiency charge (“EEC”) may be granted by the Public Service Board to an electric customer subject to the charge if the customer demonstrates that at a minimum:

- an extraordinary amount of cost-effective energy efficiency was implemented at the customer's own expense during the preceding year; or
- extraordinary costs were incurred by the customer on those measures and the customer did not and will not be reimbursed by the EEU (EVT or BED).

An extraordinary amount of energy efficiency savings or costs is an amount that is far beyond what is usual, normal, or customary.¹ The Board will need to establish clear and unambiguous standards that a customer must meet to gain an exemption. This is a daunting task. Based in part on the lack of a well-established understanding of what are ordinary energy efficiency or energy efficiency costs. The following outlines some preliminary considerations for this task. The DPS believes that the term "extraordinary" sets, and should set, a high bar for the criteria, both in terms of efficiency and costs.

Extraordinary amount of cost-effective energy efficiency

The term "extraordinary" carries a connotation that the customer obtained an amount of energy efficiency well beyond the current usual practice of owning, operating, and maintaining a home or business. The Federal Energy Policy Act ("EPACT") of 2005 contains criteria for tax deductions that might be considered. For example, the new law provides a tax deduction for new commercial buildings that reduce energy use by 50% relative to ASHRAE 90.1. Most energy efficiency experts consider this a significant hurdle. The criteria set forth in EPACT, LEED certification performance criteria, ENERGY STAR homes criteria for existing homes, and other established energy efficiency "stretch" criteria should be evaluated by the Board to determine an appropriate definition of extraordinary energy efficiency amounts required in the Act 61 legislation.

Extraordinary Costs.

Establishing fair and justifiable criteria for extraordinary costs incurred by customers for energy efficiency projects will be extremely difficult. What is extraordinary for one customer may be insignificant for another. Before considering how specific criteria might be determined, it is useful to look at the typical customer EEC

¹ The dictionary defines "extraordinary" as 1. Beyond what is ordinary, usual, or commonplace; extraordinary authority; 2. Exceeding the ordinary degree, amount, or extent; exceptional; remarkable; an extraordinary feat. 3. Used for a special service or occasion. The American Heritage Dictionary of the English Language, New College Edition, Houghton Mifflin Company, 1980

annual payment, as it is the exemption of this cost that is the customer “reward” for the successful exemption application.

The average residential customer using 600 kWh per month will pay less than \$29 in EEC charges for the year 2005. A residential customer using 3,000 kWh per month pays \$143 a year for the EEC portion of the electric bill. Vermont has about 7,250 commercial customers who use an average 43,000 kWh per year. This use results in an annual EEC of about \$141. For these categories of customers, it is unlikely the EEC exemption amount is sufficient motivation to pursue an exemption. Nonetheless, residential and small commercial customers should be eligible to seek an exemption, as it would be discriminatory not to do so.

Those who can potentially benefit the most through exemptions from the EEC are Vermont’s largest electric users. Vermont’s electric utilities report 554 industrial customers used 1.6 billion kWh’s during 2004, yielding an average use of 2,958,000 kWh or a theoretical average annual EEC of nearly \$8,000.² Consideration of criteria that take into account the customer’s annual EEC amount may be more useful for large customers.

Qualified projects are those that have not reimbursement for all or part of the costs by EVT, BED, VGS, Vermont DU’s, or other federal, state, or local grants. The role of tax incentives in covering all or a portion of the project costs should also be taken into consideration when determining the customer’s costs.

Project Eligibility

Keeping in mind the items outlined in the above discussion, a customer seeking an EEC exemption for an energy efficiency project implemented in the calendar year preceding the exemption request would have to provide proof of the following:

1. The customer obtained an extraordinary amount of energy efficiency or incurred extraordinary costs for energy efficiency measures. In this context, extraordinary would mean the customer obtained energy efficiency savings, or purchased energy

² The 2004 utility specific designation of an industrial customer may be based on that utility’s tariff under which a customer is served and may be different than the definition used to set the EEC. This “average” then is for illustrative purposes only. The industrial EEC rate is for industrial customers defined by FERC as those with a demand of 1 MW or greater. There are about 60 customers statewide who fall under this “industrial” category.

- efficiency measures, in an amount far in excess of current usual practice for the relevant home or business.
2. The project was completed and monies encumbered or paid in the previous calendar year.
 3. The project is cost-effective using the societal test, determined by use of the statewide screening tool.
 4. Eligible projects must have a benefit/cost ratio greater than 1.0, including only electric resource benefits. This is consistent with the minimum performance standards set forth in its contract with Vermont Energy Investment Corp. ("VEIC") for the Efficiency Vermont ("EVT") operations.
 5. Eligible projects must have simple customer payback no shorter than 18 months.
 6. The customer has not implemented the same measures at any of its facilities since the beginning of the year 2000.
 7. The customer has not and will not receive reimbursement for all or part of the costs by EVT, BED, VGS, Vermont DU's, or other federal, state, or local grants, including federal, state, or local tax incentives that are available or may become available

Generally, qualifying projects include any that would otherwise qualify for EVT or BED assistance. Net metered installations and distributed generation installations, including CHP projects, would not qualify unless and until such time as assistance for CHP projects is included as part of activities funded by the EEC.

Process

Implementing an EEC exemption mechanism that is reasonable, efficient, and predictable for the applicant, consistent with State energy policy, and just to all electric ratepayers will be a complex, and costly, task. The application process will likely require the resources of a number of parties in addition to the applicant, including the PSB, DPS, EEU (EVT or BED), EEU Contract Administrator. Applications will require review for adherence to the criteria, including cost effectiveness screening, savings claims reasonableness, documentation of installation, costs, absence of EVT or other reimbursements, and other criteria the Board may find appropriate to consider.

Exemptions that are granted must then be implemented in the relevant distribution system billing system.

The determination of any granted exemptions for subsequent funding years must be made prior to implementing the provisions of the existing rule making that sets the EEC rate charged to customers. The Board sets the EEC by November 1 of the year preceding charge effectiveness. EEC rule making requires information to calculate the charge be provided to the board and the DPS by September 15 of each calendar year. Board must set an annual budget by this time. Exemptions must be known by that date.

Here is a preliminary suggested time line, should such a process be put in place.

May 1	Applicant file requests and documentation to Board and DPS
August 1	EVT/BED verify cost-effectiveness using screening tool
August 15	DPS and CA present recommendations re: exemption applications, and notify applicants of decision
September 1	Board holds proceeding for consideration
September 15	Board rules on exemptions that will be effective for the following year's EEC

Recommendation

The Department through this memo has responded to the assignment given to us through Act 61. We think the assignment is very challenging and that the potential results will be minimal at best. The additional personnel to administer this program will not be presented in the Department's budget, and we have not estimated the increased workload to comply with the suggestions of this memo. We believe the program has the potential to alter and complicate the focus of our successful efficiency program. The DPS urges the Board and the other parties to revisit with the Legislature the advisability of instituting this program.